



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/813,533	03/19/2001	Seiichiro Tamai	NAK1-BO25	3576

21611 7590 12/29/2005

SNELL & WILMER LLP  
600 ANTON BOULEVARD  
SUITE 1400  
COSTA MESA, CA 92626

EXAMINER

LAROSE, COLIN M

ART UNIT PAPER NUMBER

2627

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/813,533	<b>Applicant(s)</b> TAMAI, SEIICHIRO	
	<b>Examiner</b> Colin M. LaRose	<b>Art Unit</b> 2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 2-17 and 19-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-17 and 19-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 23 September 2005 has been entered.

### ***Response to Arguments***

2. Regarding claims 2, 16, 26, and 27, Applicant argues that the combination of Flom and Hong does not teach the claimed invention. In particular, Applicant asserts that Hong does not disclose that the guide image "show[s] an outline of the body part in proper position." Examiner interpreted Hong's graphical guide 16 of figure 5 as directly corresponding to the claimed "guide image ... showing an outline of the body part in proper position," and now maintains that such an interpretation is reasonable.

Applicant asserts that Hong's graphical guide 16 is "not an outline of the body part" (see p. 11 of the Remarks). Applicant further states that "[s]howing an outline of the body part in proper position enables the position adjustment of the object image to be performed accurately in both the horizontal and vertical directions" (p. 11). Applicant then states that "the amount of data needed to be captured for an outline of the body part is much less than from the entire rectangular box," (p. 11) suggesting that a rectangular box as shown by Hong in figure 5 is not equivalent to an "outline," as claimed.

Art Unit: 2627

Essentially, Applicant points out the advantages of an "outline" over Hong's "rectangular box," however, Applicant does not appear to directly address why Hong's graphical guide 16 cannot be interpreted as an outline of a body part. Hong's figure 5 shows a user positioning himself such that his eyes fall within the rectangular guide 16, which serves as a boundary area within which the eyes are to be positioned. In other words, the Hong's graphical guide 16 is an outline of a body part insofar as the body part is to be positioned within the perimeter of the guide. Since Applicant has not particularly pointed out and claimed the patentable distinctions between an "outline of a body part" and Hong's graphical guide, Hong's graphical guide is considered to be equivalent to the claimed "outline of a body part."

Rejections Under 35 U.S.C. § 103(a)

3. Before proceeding, note that extensive reference will be made to the previous Office Action dated 3/23/04 (filed March 23, 2004). This will be referred to simply as "previous Office Action dated 3/23/04".

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2627

5. Claims 2, 6, and 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over [Flom87] (U.S. Patent 4,641,349) in view of [Hong] (U.S. Patent 6,633,655).

*The following is in regard to Claim 2.* As shown in the previous Office Action dated 3/23/04 (previous Office Action dated 3/23/04, pages 3-4), [Flom87] disclose an identity verification apparatus based on biometrics comprising:

- (2.a.) Scanning means for obtaining an object image by scanning a body part of a person without physical contact.
- (2.b.) An image display means for displaying the object image to the person
- (2.d.) A judgment means for judging whether the body part has been scanned in the proper position. [Flom87] suggests the usage of an automatic alignment system using a feedback circuit and a servo-control mechanism to adjust the relative positions of the iris and the camera. Inherent to such a system is a means for judging whether the iris was scanned in the proper position.
- (2.e.) A verification means for extracting biometric information describing a form characteristic of the body part from the object image, if in the proper position, and verifying identity by comparison with stored reference biometric information

For the sake of brevity, the details relating to these items will not be repeated. The Applicant is referred to the previous Office Action dated 3/23/04.

[Flom87] does not expressly disclose:

- (2.c.) A guide display means for displaying a guide image before obtaining the

object image, and for layering the guide image over the object image after obtaining the object image, the guide image being displayed at a fixed position on a display and showing an outline of the body part in proper position;

[Hong] disclose an image tracking system involving the recognition of the human face and the selection of the interesting image region, such as the eye region. For the purposes of acceptably aligning this eye region, the system displays an image of the observer as captured by a video camera. The image is overlaid with a *graphical guide* (e.g. graphical guide 16 in [Hong] Fig. 16A) indicating that the observer should position herself/himself so that his eyes are properly aligned with respect to the graphical guide on the display. When the observer places his head within the guide markings and the face analyzer 18 is applied to the region in order to capture the target image of the eye region. Once the analyzer 18 locates the target image, the target image is displayed with a graphical overlay so that the user can see the position of the target image and decide whether to accept it. See column 21, line 53 through column 22, line 9.

In other words, the system of [Hong] includes:

- (2.c1.) A guide display means for displaying a guide image before obtaining the object image, and for layering the guide image over the object image after obtaining the object image, the guide image being displayed at a fixed position on a display and showing an outline of the body part in proper position.

According to [Hong], the decision of whether an image is properly aligned rests on the observer.

Advantageously, this alleviates the system of the computational burden that would have

Art Unit: 2627

otherwise been required had the determination of alignment been fully automated. Furthermore, because a human observer is more naturally attuned to varying environmental conditions such as lighting, as well as the peculiarities of his/her eye region, the aforementioned process ensures that the alignment is robust and efficient. See [Hong] column 11, last paragraph. Therefore, given [Hong], it would have been obvious to one of ordinary skill in the art, at the time of the Applicant's claimed invention, to incorporate the guide display means (i.e. graphical guide) of [Hong] into a biometric identity verification apparatus, such as that of [Flom87]. It would be understood that by properly aligning the eye – and, hence, the irises – one ensures that the most accurate biometric data can be extracted from the captured image. Furthermore, within the context of [Flom87], the still, or final object image would have been understood to be the image used for extracting biometric information. The combination of [Flom87] and [Hong] would, therefore, include:

- (2.c.) A guide display means for displaying a guide image before obtaining the object image, and for layering the guide image over the object image after obtaining the object image, the guide image being displayed at a fixed position on a display and showing an outline of the body part in proper position.

Clearly this can be used in conjunction with item (2.d.) above.

Although [Flom87] discloses the claimed judgment means, it should be noted that [Hong] as disclose judging whether the body part (i.e. the eyes) has been scanned in the proper position by allowing a user to verify the position with the aid of an overlaid graphical guide (see column 22, lines 1-9).

Art Unit: 2627

*The following is in regard to Claim 6.* It was effectively shown in the previous Office Action dated 3/23/04 that, the identity verification apparatus of [Flom87] includes:

- (6.a.) A repetition control means for controlling the scanning means in order to repeatedly scan the body part.
- (6.b.) A verification means for extracting biometric information from a plurality of object images obtained by repeated scanning and verifying identity.

The combination of [Flom87] and [Hong] would, thus, incorporate these elements. For the sake of brevity, the details relating to these items will not be repeated. The Applicant is referred to the previous Office Action dated 3/23/04 (see previous Office Action dated 3/23/04, page 5).

*The following is in regard to Claims 27-28.* These claims recite substantially the same limitations as Claim 2. Therefore, with regard to Claims 27-28, remarks analogous to those presented above relating to Claim 2 are applicable.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over [Flom87], in view of [Hong], in further view of [Ito03] (U.S. Patent 6,526,160).

*The following is in regard to Claim 3.* Note that the addition of the guide display means of [Hong] into the identification apparatus of [Flom87] does not detract from the statements given in the previous Office Action dated 3/23/04 in support of the combination of [Ito03] with [Flom87]; nor does it diminish in any way the originally posed motivations to combine. [Hong] was shown above to remedy the deficiencies of [Flom87]. Therefore, a prima facie case of obviousness can be established in view of [Ito03] along the same lines of the original rejection.



Art Unit: 2627

For the sake of brevity, the details will not be repeated here. The Applicant is referred to the previous Office Action dated 3/23/04 (see previous Office Action dated 3/23/04, pages 6-7).

7. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over [Flom87], in view of [Hong], in further view of [Steinberg02] (U.S. Patent 6,433,818).

*The following is in regard to Claims 4-5.* Note that the addition of the guide display means of [Hong] into the identification apparatus of [Flom87] does not detract from the statements given in the previous Office Action dated 3/23/04 in support of the combination of [Steinberg02] with [Flom87]; nor does it diminish in any way the originally posed motivations to combine. [Hong] was shown above to remedy the deficiencies of [Flom87]. Therefore, a prima facie case of obviousness can be established in view of [Steinberg02] along the same lines of the original rejections. For the sake of brevity, the details will not be repeated here. The Applicant is referred to the previous Office Action dated 3/23/04 (see previous Office Action dated 3/23/04, pages 7-10).

8. Claims 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over [Flom87], in view of [Hong], in further view of [Fleming] (GB Patent Application Publication 2,229,305).

*The following is in regard to Claims 7-11.* Note that the addition of the guide display means of [Hong] into the identification apparatus of [Flom87] does not detract from the statements given in the previous Office Action dated 3/23/04 in support of the combination of [Fleming] with [Flom87]; nor does it diminish in any way the originally posed motivations to combine. [Hong] was shown above to remedy the deficiencies of [Flom87]. Therefore, a prima

Art Unit: 2627

facie case of obviousness can be established in view of [Fleming] along the same lines of the original rejections. For the sake of brevity, the details will not be repeated here. The Applicant is referred to the previous Office Action dated 3/23/04 (see previous Office Action dated 3/23/04, pages 10-14).

9. Claims 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over [Flom87], in view of [Hong], in further view of [Brown03] (U.S. Patent 6,618,806).

*The following is in regard to Claims 12-13.* Note that the addition of the guide display means of [Hong] into the identification apparatus of [Flom87] does not detract from the statements given in the previous Office Action dated 3/23/04 in support of the combination of [Brown03] with [Flom87]; nor does it diminish in any way the originally posed motivations to combine. [Hong] was shown above to remedy the deficiencies of [Flom87]. Therefore, a prima facie case of obviousness can be established in view of [Brown03] along the same lines of the original rejections. For the sake of brevity, the details will not be repeated here. The Applicant is referred to the previous Office Action dated 3/23/04 (see previous Office Action dated 3/23/04, pages 14-15).

10. Claims 14-17 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over [Flom87], in view of [Hong], in further view of [Pare98] (U.S. Patent 5,802,199).

*The following is in regard to Claims 14-17 and 26.* Note that the addition of the guide display means of [Hong] into the identification apparatus of [Flom87] does not detract from the statements given in the previous Office Action dated 3/23/04 in support of the combination of

Art Unit: 2627

[Pare98] with [Flom87]; nor does it diminish in any way the originally posed motivations to combine. [Hong] was shown above to remedy the deficiencies of [Flom87]. Therefore, a prima facie case of obviousness can be established in view of [Pare98] along the same lines of the original rejections. For the sake of brevity, the details will not be repeated here. The Applicant is referred to the previous Office Action dated 3/23/04 (see previous Office Action dated 3/23/04, pages 16-17 and 20-21).

In addition, claims 16 and 26 have been amended in accordance with claim 2 to denote that (a) a guide image is displayed "before obtaining the object image," and (b) the guide image is "layered ... over the object image after obtaining the object image," wherein (c) the guide image is "displayed at a fixed position on the display." The remarks above concerning the combination of [Flom87] and [Hong] are also applicable to claims 16 and 26

11. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over [Flom87], in view of [Hong], in further view of [Musgrave] (U.S. Patent 6,377,699).

*The following is in regard to Claim 19.* Note that the addition of the guide display means of [Hong] into the identification apparatus of [Flom87] does not detract from the statements given in the previous Office Action dated 3/23/04 in support of the combination of [Musgrave] with [Flom87]; nor does it diminish in any way the originally posed motivations to combine. [Hong] was shown above to remedy the deficiencies of [Flom87]. Therefore, a prima facie case of obviousness can be established in view of [Musgrave] along the same lines of the original rejection. For the sake of brevity, the details will not be repeated here. The Applicant is referred to the previous Office Action dated 3/23/04 (see previous Office Action dated 3/23/04, page 21).

Art Unit: 2627

12. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over [Flom87], in view of [Hong], in further view of [Oda03] (U.S. Patent 6,591,001).

*The following is in regard to Claim 20.* Note that the addition of the guide display means of [Hong] into the identification apparatus of [Flom87] does not detract from the statements given in the previous Office Action dated 3/23/04 in support of the combination of [Oda03] with [Flom87]; nor does it diminish in any way the originally posed motivations to combine. [Hong] was shown above to remedy the deficiencies of [Flom87]. Therefore, a prima facie case of obviousness can be established in view of [Oda03] along the same lines of the original rejection. For the sake of brevity, the details will not be repeated here. The Applicant is referred to the previous Office Action dated 3/23/04 (see previous Office Action dated 3/23/04, pages 21-22).

13. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over [Flom87], in view of [Hong], in further view of [Cambier03] (U.S. Patent 6,532,298).

*The following is in regard to Claim 21.* Note that the addition of the guide display means of [Hong] into the identification apparatus of [Flom87] does not detract from the statements given in the previous Office Action dated 3/23/04 in support of the combination of [Cambier03] with [Flom87]; nor does it diminish in any way the originally posed motivations to combine. [Hong] was shown above to remedy the deficiencies of [Flom87]. Therefore, a prima facie case of obviousness can be established in view of [Cambier03] along the same lines of the original rejection. For the sake of brevity, the details will not be repeated here. The Applicant is referred

Art Unit: 2627

to the previous Office Action dated 3/23/04 (see previous Office Action dated 3/23/04, pages 22-23).

14. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over [Flom87], in view of [Hong], in further view of [Hsu00] (U.S. Patent 6,100,811).

*The following is in regard to Claim 22.* Note that the addition of the guide display means of [Hong] into the identification apparatus of [Flom87] does not detract from the statements given in the previous Office Action dated 3/23/04 in support of the combination of [Hsu00] with [Flom87]; nor does it diminish in any way the originally posed motivations to combine. [Hong] was shown above to remedy the deficiencies of [Flom87]. Therefore, a prima facie case of obviousness can be established in view of [Hsu00] along the same lines of the original rejection. For the sake of brevity, the details will not be repeated here. The Applicant is referred to the previous Office Action dated 3/23/04 (see previous Office Action dated 3/23/04, page 23).

15. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over [Flom87], in view of [Hong], in further view of [Saito02] (U.S. Patent Application Publication 2002/0034321).

*The following is in regard to Claim 23.* Note that the addition of the guide display means of [Hong] into the identification apparatus of [Flom87] does not detract from the statements given in the previous Office Action dated 3/23/04 in support of the combination of [Saito02] with [Flom87]; nor does it diminish in any way the originally posed motivations to combine. [Hong] was shown above to remedy the deficiencies of [Flom87]. Therefore, a prima facie case

Art Unit: 2627

of obviousness can be established in view of [Saito02] along the same lines of the original rejection. For the sake of brevity, the details will not be repeated here. The Applicant is referred to the previous Office Action dated 3/23/04 (see previous Office Action dated 3/23/04, page 24).

16. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over [Flom87], in view of [Hong], in further view of [Doster] (U.S. Patent 5,956,122).

*The following is in regard to Claim 24.* Note that the addition of the guide display means of [Hong] into the identification apparatus of [Flom87] does not detract from the statements given in the previous Office Action dated 3/23/04 in support of the combination of [Doster] with [Flom87]; nor does it diminish in any way the originally posed motivations to combine. [Hong] was shown above to remedy the deficiencies of [Flom87]. Therefore, a prima facie case of obviousness can be established in view of [Doster] along the same lines of the original rejection. For the sake of brevity, the details will not be repeated here. The Applicant is referred to the previous Office Action dated 3/23/04 (see previous Office Action dated 3/23/04, pages 24-25).

17. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over [Flom87], in view of [Hong], in further view of [Pare03] (U.S. Patent 6,662,166).

*The following is in regard to Claim 25.* Note that the addition of the guide display means of [Hong] into the identification apparatus of [Flom87] does not detract from the statements given in the previous Office Action dated 3/23/04 in support of the combination of [Pare03] with [Flom87]; nor does it diminish in any way the originally posed motivations to combine. [Hong] was shown above to remedy the deficiencies of [Flom87]. Therefore, a prima facie case of

Art Unit: 2627

obviousness can be established in view of [Pare03] along the same lines of the original rejection.

For the sake of brevity, the details will not be repeated here. The Applicant is referred to the previous Office Action dated 3/23/04 (see previous Office Action dated 3/23/04, pages 25-26).

### *Conclusion*

18. This is a continuation of Applicant's earlier application. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application.

Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case.

See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Colin M. LaRose whose telephone number is (571) 272-7423. If attempts to reach the examiner by telephone are unsuccessful, the examiner's acting supervisor,

Art Unit: 2627

Bhavesh Mehta, can be reached on (571) 272-7453. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 2600 Customer Service Office whose telephone number is (571) 272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CML  
Group Art Unit 2627  
12 December 2005



**VIKKRAM BALI**  
**PRIMARY EXAMINER**